

Falls Church, Virginia 20530

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File: D2013-347

Date:

DEC 29 2014

In re: PETER SINGH, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

APPEAL

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel  
Christina Baptista, Associate General Counsel

ON BEHALF OF DHS: Diane H. Kier, Associate Legal Advisor

ON BEHALF OF RESPONDENT: David J. Chapman, Esquire

In an August 13, 2014, decision, an Immigration Judge, acting as the Adjudicating Official in this case, issued a "Decision and Order", in which he suspended attorney Peter Singh from practice before the Immigration Courts, Board of Immigration Appeals, and Department of Homeland Security (the "DHS") for sixteen months. The respondent was also prohibited from appearing telephonically in the Immigration Courts for seven years. The respondent Peter Singh filed an appeal with the Board. Both the respondent and the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR), who initiated these proceedings, have filed briefs, which have been given consideration by the Board in reaching this decision. The respondent's appeal will be dismissed.<sup>1</sup>

The respondent is a licensed attorney in California. The EOIR Disciplinary Counsel initiated these disciplinary proceedings on January 9, 2014, by filing a Notice of Intent to Discipline, and sought to have the respondent suspended from practice for two years. The DHS then asked that the respondent be similarly suspended from practice before that agency.

The EOIR Disciplinary Counsel specifically alleged that, on at least eight occasions, the respondent enlisted his legal assistant, Douglas Comstock, to appear in his place during telephonic appearances before Immigration Judges. The EOIR Disciplinary Counsel alleged that the respondent assisted and facilitated the unlawful practice of law in at least eight cases, in violation of 8 C.F.R. § 1003.102(m); knowingly made false statements of material fact to an officer of the Department of Justice, in violation of 8 C.F.R. § 1003.102(c); engaged in conduct prejudicial to the administration of justice, in violation of 8 C.F.R. § 1003.102(n); and failed to provide competent representation to a client, in violation of 8 C.F.R. § 1003.102(o).

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<sup>1</sup> The respondent's request to present oral argument before the Board is denied.

The respondent conceded that he had violated 8 C.F.R. § 1003.102(n)(A.O. at 2). He admitted that improper telephone appearances took place as early as 2011, and happened in eight more cases not mentioned in the Notice of Intent to Discipline. *Id.* The Adjudicating Official sustained all charges except the charge brought under 8 C.F.R. § 1003.102(c).

The Board reviews findings of fact under the “clearly erroneous” standard. 8 C.F.R. §§ 1003.1(d)(3)(i); 1003.106(c). The Board reviews questions of law, discretion, and judgment and all other issues in appeals de novo. *Matter of Kronegold*, 25 I&N Dec. 157, 159-60 (BIA 2010); 8 C.F.R. §§ 1003.1(d)(3)(ii); 1003.106(c).

The Board has considered the arguments raised on appeal by the respondent. Upon such review, the Board finds no reason to disturb either the factual findings or any other conclusion or ruling reached by the Adjudicating Official. We therefore will adopt and affirm the Adjudicating Official’s August 13, 2014, order, with the following comments. *See e.g. Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that adoption or affirmance of a decision of an Immigration Judge, in whole or in part, is “simply a statement that the Board’s conclusions upon review of the record coincide with those which the Immigration Judge articulated in his or her decision”).

As stated, we agree with the Adjudicating Official’s findings and analysis, and his determination that the respondent violated 8 C.F.R. §§ 1003.102(m), 1003.102(n), and 1003.102(o). In any event, as the Adjudicating Official acknowledged, the respondent admitted that he had engaged in conduct prejudicial to the administration of justice, in violation of 8 C.F.R. § 1003.102(n). This action admittedly dated back to 2011, involved 16 immigration cases, and various Immigration Courts. The discipline imposed by the Adjudicating Official would be reasonable and fair to the respondent, for this very serious offense, as it carefully weighed the aggravating and mitigating factors presented, even if it were to be determined that the respondent did not violate the other regulatory provisions.

The respondent argues that the Adjudicating Official erred by excluding the testimony of Ellen A. Pansky (Respondent’s Br. at 17-25). According to Ms. Pansky’s resume, she is a “California Bar Certified Specialist in the area of legal malpractice law”. The Adjudicating Official issued a prehearing order excluding her testimony, which would concern disciplinary proceedings in California, as being “insufficiently probative”, given that Ms. Pansky is not an expert concerning these disciplinary proceedings. As argued by the EOIR Disciplinary Counsel, Ms. Pansky might have claimed that the respondent will be subject to reciprocal discipline by the State Bar of California, but such a claim would be speculative and irrelevant to these proceedings. EOIR Disciplinary Counsel Br. at 39. Equally unconvincing is the respondent’s claim that he was barred by “client confidentiality concerns” from fully defending himself against the allegations of the EOIR Disciplinary Counsel (Respondent’s Br. at 39-43). The respondent does not show that such duty precluded a fair defense against the charges (EOIR Disciplinary Counsel Br. at 17-18).

The respondent may petition for reinstatement to practice before the Board, Immigration Courts, and DHS after one year has elapsed, under 8 C.F.R. § 1003.107(b). The respondent would need to show that he meets the regulatory definition of attorney and would need to demonstrate "by clear and convincing evidence that he . . . possess[es] the moral and professional qualifications required to appear before the Board and the Immigration Courts or DHS, or before all three authorities, and that his . . . reinstatement [would] not be detrimental to the administration of justice." *Id.*; *Matter of Krivonos*, 24 I&N Dec. 292 (BIA 2007).

The respondent's appeal will, therefore, be dismissed.

ORDER: The respondent's appeal is dismissed, and the Adjudicating Official's August 13, 2014, decision is affirmed.

FURTHER ORDER: The respondent is suspended from practice before the Immigration Courts, Board of Immigration Appeals, and DHS, for a period of sixteen months, effective 15 days from this date. 8 C.F.R. § 1003.106(c).

FURTHER ORDER: The respondent is prohibited from appearing telephonically in the Immigration Courts for seven years, effective 15 days from this date. 8 C.F.R. § 1003.106(c).

FURTHER ORDER: The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies.

FURTHER ORDER: The respondent shall maintain records to evidence compliance with this order.

FURTHER ORDER: The Board directs that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: As noted, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107.

  
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FOR THE BOARD